COMMISSIONER FOR PATENTS

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0 · 7006 Under the Paperwork Redu	U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERC ction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number
In Application of:	LOGVINOV, OLEG et al.
Application No.:	10643316
Filing Date:	08/19/03
Title:	METHOD AND SYSTEM FOR MAXIMIZING DATA
	THROUGHPUT RATE IN A POWER LINE COMMUNICATIONS
	SYSTEM BY MODIFYING PAYLOAD SYMBOL LENGTH
Direct to:	U.S. Patent and Trademark Office Mail Stop: <b>Duplicates</b> Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450
	ICE UNDER 37 CFR 1.251 – Pending Application
Statement (check the appropria	te dox):
between the Office and the applic	reply is a complete and accurate copy of applicant's record of all of the correspondence ant for the above-identified application (except for U.S. patent documents), and applicant is between the Office and applicant for the above-identified application that is not among
The copy of the paper(s) listed of such paper(s).	in the notice under 37 CFR 1.251 is/are a complete and accurate copy of applicant's record
applicant for the above-identified	ant are applicant's complete record of all of the correspondence between the Office and the d application (except for U.S. patent documents), and applicant is not aware of any ice and the applicant for the above-identified application that is not among applicant's
☐Applicant does not possess any application.	record of the correspondence between the Office and the applicant for the above-identified

JUNE 30, 2006

J. Slowing Signature

#### A Copy of this notice should be returned with the reply.

Burden Hour Statement: This collection of information is required by 37 CFR 1.251. The information is used by the public to reply to a request for copies of correspondence between the applicant and the USPTO in order to reconstruct an application file. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This form is estimated to take 60 minutes to complete. This time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 223131450.

PTO Doc Code: R251.RES (Rev. 03/05)

PATENT

Attorney Docket No.: 34585-509

#### IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.

10/643,316

Confirmation No.:

3556

Applicant(s)

Oleg Logvinov, et al.

Filed

تتجر

August 19, 2003

TC/A.U.

2632

Examiner

Not Yet Assigned

JUN 3 0 2006

METHOD AND SYSTEM FOR MAXIMIZING DATA

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MAIN STORP LETITION
Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

#### **EXPRESS MAIL TRANSMITTAL**

I hereby certify that the documents and/or fee(s) listed below are being deposited with the United States Patent and Trademark Office as Express Mail bearing Express Mail Label No. <u>EV829091438US</u> under 37 C.F.R. §1.10 in an envelope with prepaid postage on the date indicated above and addressed to **MAIL STOP PETITION**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450:

- 1. Petition for Revival of an Unintentionally Abandoned Patent Application under 37 C.F.R. §1.137(b), [3 pgs.];
- 2. Executed Declaration of Oleg Logvinov in Support of Petition for Revival of An Unintentionally Abandoned Patent Application Under 37 C.F.R. § 1.137(b) [2 pgs.];
- 3. Reply to Notice under 37 CFR § 1.251 [1 pg];
- 4. Revocation By Assignee and New Power of Attorney [2 pgs.];
- 5. Copy of the Specification filed August 19, 2003 [28 pgs];
- 6. Copy of Transmittal Letter filed on August 19, 2003 [2 pgs.].
- 7. Copy of Utility Patent Application Transmittal filed on August 19, 2003 [1 pg.];
- 8. Copy of Stamped-Receipt Postcard dated August 19, 2003 [1 pg.];
- 9. Check No. 3294 in the amount of \$750.00 in payment of the Petition Fee;
- 10. Express Mail Transmittal, [1 pg.]; and
- 11. Return Receipt Postcard

If the enclosed papers are considered incomplete, the Mail Room is respectfully requested to contact the undersigned collect at (212) 935-3000, New York, New York. The Director is authorized to credit any overpayment or charge any deficiencies to Deposit Account No. 50-0311, Reference No. 34585-509, Customer No. 35437.

Dated: June 30, 2006

Richard G. Gervase, Reg. No. 46,725 Timur E. Slonim, Reg. No. 47,095

Attorneys for Applicants

MINTZ LEVIN COHEN FERRIS GLOVSKY and POPEO, P.C.

The Chrysler Center; 666 Third Avenue, 24<sup>th</sup> Floor

New York, NY 10017 Telephone: (212) 935-3000 Facsimile: (212) 983-3115

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MAIL STOP PETITION

Commissioner for Patents P.O. Box 1450

Alexandria, VA 22313-1450

## PETITION FOR REVIVAL OF AN UNINTENTIONALLY ABANDONED PATENT APPLICATION UNDER 37 C.F.R. 1.137(b)

- 1. This petition is to request revival of the above-referenced application under 37 C.F.R. § 1.137(b). This application went abandoned due to Applicant's unintentional failure to respond to the "Notice Under 37 CFR 1.251 Pending Application" dated April 20, 2005, in which the Patent and Trademark Office ("PTO") required resubmission of the specification Applicants originally filed with the PTO on August 19, 2003. Applicants have acted promptly to reinstate the above-referenced application since they became aware of its unintentional abandonment
- 2. A check # (3294) for \$750.00 in payment of the petition fee set forth in 37 C.F.R. § 1.17(m) is enclosed (37 C.F.R. § 1.137(b)(2)).
- 3. Applicants hereby state that the entire delay in filing the required reply from the due date until the filing of the present petition was unintentional (37 C.F.R. § 1.137(b)(3)).

  § 1.137(b)(3)).

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  750.00 OP
- 4. In particular, the PTO mailed the notice dated April 20, 2005 to applicants' prior attorneys from Norris McLaughlin & Marcus PA (the "NMM firm"). The NMM firm withdrew from representation of the applicants on June 16, 2005 without giving notice to the applicants of the deadline to reply to the Notice. (Logvinov Dec. ¶ 3) The withdrawing NMM firm has forwarded the voluminous patent files

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en masse to the assignee of the application, Arkados, Inc., a small company whose headcount had been only between 10 and 12 employees, none of whom is trained in the patent law field. Arkados has diligently undertook to review the files but has not been able to complete that process before the deadline to reply to the notice. (Logvinov Decl. ¶¶ 3-4)

- 5. Soon after the withdrawal of the NMM firm, Arkados started negotiations with them to revive the relationship. In fact, in August 2005 the negotiations were already under way for the NMM firm to continue representing Arkados in the intellectual property matters. As a back up plan, in September 2005 Arkados has also contacted other law firms in an effort to find replacement intellectual property counsel. (Logvinov Decl. ¶ 5)
- 6. To date, the PTO has not issued a Notice of Abandonment in this case. Nevertheless, this case is technically abandoned because Applicants unintentionally did not respond to the PTO notice dated April 20, 2005. Arkados never intended to abandon this application. Arkados places significant value on its patents and has continuously expanded its patent portfolio. In fact, Arkados already has 3 issued U.S. patents. Arkados relies on patent protection of its innovative technology and issues press releases about the issuance of its patents. In addition to the already incurred R&D expenses to invent this technology, Arkados has already spent approximately \$10,000 on preparation of this application and would not want to abandon that investment. Therefore, Arkados was eager to pursue patent protection for the present invention and did **not** intend to abandon it. (Logvinov Decl. ¶ 6)
- 7. In November 2005, Arkados promptly continued negotiations to hire back the NMM firm, the firm most familiar with the Arkados' applications because it has drafted and prosecuted almost the entire Arkados' patent portfolio. Arkados also looked into hiring other patent counsel. (Logvinov Decl. ¶ 7) After on March 31, 2006 the NMM firm finally rejected Arkados' proposals to continue work on Arkados' patent portfolio, Arkados has engaged Mintz Levin Cohn Ferris Glovsky & Popeo, P.C. ("Mintz Levin") in April 2006, to become its patent counsel. Mintz Levin has promptly reviewed the file, discovered the PTO notice dated April 20, 2005, and prepared this petition to revive this unintentionally abandoned application. (Logvinov Decl. ¶ 8)
- 8. Pursuant to 37 C.F.R. § 1.137(b)(1), a Response to the "Notice Under 37 CFR 1.251 Pending Application" is enclosed resubmitting the specification.
- 9. Since this utility application was filed on or after June 8, 1995, no terminal disclaimer is required.
- 10. The Director is hereby authorized to charge any additional fee(s) that may be due in connection with this Petition and/or the payment of the Issue Fee that accompanies

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Date of Deposit: June 30, 2006

this Petition to Deposit Account No. <u>50-0311</u>, Ref. No. <u>34585-509</u>, Customer No. <u>35437</u>. A duplicate copy of this Petition is enclosed.

- 11. If the enclosed papers are considered incomplete, the U.S. Patent and Trademark Office is respectfully requested to contact the undersigned at the below address.
- 12. A Revocation by Assignee and New Power of Attorney to Mintz Levin is being filed concurrently herewith.
- 13. A return receipt is enclosed.

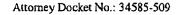
Dated: June 30, 2006

Respectfully submitted,

Richard G. Gervase, Reg. No. 46,725 Timur E. Slonim, REg. No. 47,095 Attorneys for Applicants c/o MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO, P.C.

The Chrysler Center 666 Third Avenue, 24<sup>th</sup> Floor New York, NY 10017

Tel: (212) 935-3000 Fax: (212) 983-3115 Express Mail Label No.: EV 829091438US





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#### MAIL STOP PETITION

Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

# DECLARATION OF OLEG LOGVINOV IN SUPPORT OF PETITION FOR REVIVAL OF AN UNINTENTIONALLY ABANDONED PATENT APPLICATION UNDER 37 C.F.R. § 1.137(b)

I. Oleg Logvinov, hereby depose and state as follows:

- I am the President and CEO of Arkados, Inc. and have held these positions since May 24, 2004. The above-referenced application has been assigned to Arkados on August 27, 2004. I submit this declaration in support of Arkados' Petition For Revival of an Unintentionally Abandoned Patent Application Under 37 C.F.R. § 1.137(b). My declaration is based on my own personal knowledge.
- Arkados, Inc. and its predecessor company Enikia LLC have been represented in the intellectual property matters, including patent preparation and prosecution, by the law firm of Norris McLaughlin & Marcus PA (the "NMM firm") for over 4 years. The NMM firm has filed over 30 patent applications in the U.S. and abroad and obtained 3 issued US patents for Arkados.
- 3. The U.S. Patent Office ("PTO") mailed a "Notice Under 37 CFR 1.251 Pending Application" for the above-referenced application to the NMM firm on April 20, 2005. On June 16, 2005, the NMM firm withdrew from representation of Arkados without giving notice of the deadline to reply to the PTO notice. The withdrawing NMM firm has forwarded 6 boxes of the voluminous patent files en masse to Arkados.

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Date of Deposit: June 8, 2006

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Attorney Docket No.: 34585-509

- Arkados is a small company whose headcount had been only between 10 and 12 4. employees, none of whom is trained in the patent law field. Arkados has diligently undertook to review the files but has not been able to complete that process before the deadline to reply to the notice.
- Soon after the withdrawal of the NMM firm, I started negotiations with them to 5. revive the relationship. In fact, in August 2005 the negotiations were already under way for the NMM firm to continue representing Arkados in the intellectual property matters. As a back up plan, in September 2005 I have also contacted other law firms in an effort to find replacement intellectual property counsel.
- Arkados never intended to abandon this application. Arkados places significant 6. value on its patents and has continuously expanded its patent portfolio. In fact, Arkados already has 3 issued U.S. patents. Arkados relies on patent protection of its innovative technology and issues press releases about the issuance of its patents. In addition to the already incurred R&D expenses to invent this technology, Arkados has already spent approximately \$10,000 on preparation of this application and would not want to abandon that investment for this Therefore, Arkados was eager to pursue patent protection for the present invention and did not intend to abandon it.
- In November 2005, Andreas Typaldos, the chairman of the board of Arkados' 7. parent corporation CDKnet.com, and I promptly continued negotiations to hire back the NMM firm, the firm most familiar with the Arkados' applications because it has drafted and prosecuted almost the entire Arkados' patent portfolio. The negotiations with the NMM took several months. Arkados also looked into hiring other patent counsel.
- After on March 31, 2006 the NMM firm finally rejected Arkados' proposals to 8. continue work on Arkados' patent portfolio, Arkados has engaged Mintz Levin Cohn Ferris Glovsky & Popeo, P.C. ("Mintz Levin") in April 2006, to become its patent counsel. Mintz Levin has promptly reviewed the file, discovered the PTO notice dated April 20, 2005 and the resulting abandonment, and prepared the accompanying petition to revive this unintentionally abandoned application.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopandize the validity of the application or patent issued thereon.

Date: 6/27/06

Jun 28 2006 5:46PM

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JUN 30 2006

INTEREST

Attorney Docket No.: 34585-509 Application Serial No. 10/643,316

### E UNITED STATES PATENT AND TRADEMARK OFFICE

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#### REVOCATION AND NEW POWER OF ATTORNEY

ARKADOS, INC., having a place of business at 948 U.S. Highway #22 East, North Plainfield, NJ 07060, certifies under 37 C.F.R. § 3.73(b) that it is the Assignee of the entire right, title, and interest in and to the above-identified patent application by virtue of a chain of title from the inventors to ARKADOS, INC. as follows:

- 1. An assignment from the inventors to Enikia LLC recorded in the U.S. Patent Office at Reel/Frame 015204/0111;
- 2. An assignment from Enikia LLC to Miletos, Inc. recorded in the U.S. Patent Office at Reel/Frame 014608/0163; and
- 3. An assignment from Miletos, Inc. to ARKADOS, INC. recorded in the U.S. Patent Office at Reel/Frame 015042/0804.

ARKADOS, INC. hereby revokes all powers of attorney previously given and appoints all the attorneys and/or agents identified by:

Customer No. 35437 Mintz Levin Cohn Ferris Glovsky & Popeo P.C. 666 Third Avenue, 24<sup>th</sup> Floor New York, N.Y. 10017

Attorney Docket No. 34585-509 Application Serial No. 10/643,316

with full power of substitution and revocation, to prosecute the applications identified in Schedule A, and to transact all business in the United States Patent and Trademark Office connected therewith.

Please send all future correspondence to:

6/27/06

Customer No. 35437 Mintz Levin Cohn Ferris Glovsky & Popeo P.C. 666 Third Avenue, 24th Floor New York, NY 10017

Please direct all telephone calls to Richard G. Gervase, Registration No. 46,725, at (212) 935-3000.

ARKADOS, INC. represents that the undersigned is a representative authorized and empowered to sign on its behalf.

Respectfully submitted,

Assignee of Interest:

ARKADOS, INC

TITLE:

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